

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

JOHN B. GRAHAM,

Plaintiff,

v.

**NANCY A. BERRYHILL, Acting
Commissioner of Social Security,**

Defendant.

Case No. CIV-15-589-CG

ORDER

This matter is before the Court on Plaintiff's motion under Rule 60(b)(6) of the Federal Rules of the Civil Procedure, seeking authorization to file a motion for attorney's fees under 42 U.S.C. § 406(b)(1). *See* Pl.'s Mot. (Doc. No. 29) at 1-3; J. (Doc. No. 23) at 1 (entered Sept. 30, 2016); *McGraw v. Barnhart*, 450 F.3d 493, 505 (10th Cir. 2006); *Harlan v. Colvin*, No. CIV-13-477-D, 2015 WL 9295809, at *1 (W.D. Okla. Dec. 18, 2015). Defendant has filed no response to the motion within the time allowed by local rule. *See* LCvR 7.1(g).

Plaintiff informs the Court that on January 25, 2018, an Administrative Law Judge issued a "Fully Favorable" decision "finding Plaintiff disabled as of April 30, 2009." Pl.'s Mot. at 2; *see id.* Ex. 1 (Doc. No. 29-1). Plaintiff further informs the Court that the Commissioner has not yet "issued an award letter calculating the retroactive benefits due" to Plaintiff. Pl.'s Mot. at 3.

The Court finds that "[s]ubstantial justice will be served by allowing counsel to seek § 406(b)(1) fees under the authority of Rule 60(b)(6)." *McGraw*, 450 F.3d at 505.

Accordingly, Plaintiff's Rule 60(b)(6) Motion (Doc. No. 29) is hereby GRANTED. Plaintiff's counsel shall file his motion for attorney's fees within a reasonable time of receipt of the Commissioner's award letter.

IT IS SO ORDERED this 9th day of March, 2018.



CHARLES B. GOODWIN
UNITED STATES MAGISTRATE JUDGE